



Haryana Government Gazette

Published by Authority

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No. 50-2018] CHANDIGARH, TUESDAY, DECEMBER 11, 2018 (AGRAHAYANA 20, 1940 SAKA)

PART-I

Notifications, Orders and Declarations by Haryana Government

STATE ELECTION COMMISSION HARYANA
NIRVACHAN SADAN, PLOT NO. 2, SECTOR 17,
PANCHKULA

Order

The 30th November, 2018

No. SEC/3ME/2018/6703.— The General Elections of Municipal Council, Narnaul were held on 22.05.2016 and the result of the elected candidates was declared on same day.

2. Section 13E of the Haryana Municipal Act, 1973, provides that every candidate at an election shall, either himself or by his election agent, keep a separate and correct account of all expenditure in connection with the election incurred or authorized by him or by his election agent from the date of filing of nomination papers to the date of declaration of the result thereof, both dates inclusive. The account shall contain such particulars, as may be notified by the State Election Commission in this behalf. The total of the said expenditure shall not exceed such amount as may be notified by the State Election Commission from time to time.

3. State Election Commission issued Notification No.SEC/4ME/2006/9706, dated 19.12.2006 in exercise of powers conferred *inter alia* under Section 13D of the Act and made the Haryana Municipal Election Expenditure (Maintenance and Submission of Accounts) Order, 2006. Clause 5(6) of the Order provides that every contesting candidate or his election agent shall lodge account of election expenditure within thirty days from the date of declaration of election result with the Deputy Commissioner or an officer authorized by the State Election Commission.

4. Section 13D of the Haryana Municipal Act, 1973 read with Section 10 A of the Representation of People Act, 1951 further provides that if the Election Commission is satisfied that a person –

- (a) has failed to lodge an account of election expenses, within the time and in the manner required by or under this Act, and
- (b) has no good reason or justification for the failure

the Election Commission shall, by order published in the Official Gazette, declare him to be disqualified and any such person shall be disqualified for a period of three years from the date of the order.

(2004)

5. In pursuance of the above provisions, the State Election Commission, Haryana *vide* its notification No. SEC/3ME/2015/619, dated 03.06.2015 in exercise of powers vested under clause (i) Article 243 ZA of the Constitution of India, sub-section 3 of Section 13E of the Haryana Municipal Act, 1973 had prescribed the limit of expenditure of Rs. 75,000/- that may be incurred by the contesting candidate or his authorized agent in connection with election of Municipal Council, Narnaul and account of election expenses shall be filed/lodged with the Deputy Commissioner or any other officer prescribed by the Commission within 30 days from the date of declaration of the result of election.

6. The State Election Commissioner, Haryana in exercise of powers contained under Section 9 (1A) of the Haryana Municipal Corporation Act, 1994 authorized District Attorney, State Election Commission, Haryana *vide* order No.SEC/1ME/2017/2017, dated 01.12.2017 to decide the cases of disqualification of the candidates, who failed to lodge their account of election expenses. Thereafter in modification of above orders with order No.SEC/1ME/2018/842, dated 28.02.2018, the district assigned to District Attorney were assigned between undersigned and Assistant State Election Commissioner, Haryana. District Mahendergarh was assigned to undersigned for this purpose.

7. As reported by the Deputy Commissioner, Mahendergarh at Narnaul, Sh. Dhiraj Kumar, contesting candidate, Ward No.22 had contested the election of Municipal Council, Narnaul held on 22.05.2016 but failed to submit his election expenditure account within the prescribed time.

8. In pursuance of the amendment and subsequent insertion of Section 13-K the State Election Commissioner can review his orders made under Section 13-J of the Act if a person so disqualified under Section 13-I or 13-J files an appeal for review of order within a period of 45 days from the receipt of the orders. Section 13K reads as under:-

“Review.- A member so disqualified under section 13-I or 13-J may file an application for review of order before the State Election Commission within a period of forty-five days from the receipt of the order. The order passed by the State Election Commission under this section shall be final and no civil court shall have jurisdiction to entertain a petition against such order.”

9. Hence, in his review application dated 02.11.2018, the applicant Sh. Dhiraj Kumar s/o Sh. Mahavir Parsad r/o Mohalla Nai Sarai, Ward No.22, Tehsil and Post Office, Narnaul, District Mahendergarh submitted that he had contested the municipal elections held on 22.05.2016. In compliance of Section 13(D) he had filed his expenditure statement incurred during elections and submitted it duly countersigned from the Competent Authority to the Deputy Commissioner within prescribed limit of 30 days. But now the State Election Commission has disqualified him for non-submission of election expenses. He further stated that a notice regarding personal hearing had been served upon him and he appeared personally. He further stated that a copy of letter of MC, Narnaul has been submitted there *vide* which his name has appeared at Sr.No.21 of the letter dated 31.05.2017. Secondly since he has already deposited the election expenditure, he cannot be disqualified on this ground. Finally he requested to review the disqualification order and set-aside the disqualification order passed by the competent authority on 01.10.2018.

10. In view of the review application of Sh.Dhiraj Kumar a notice was issued to Sh.Dhiraj Kumar as well as to the Deputy Commissioner, Mahendergarh asking him to depute a dealing person alongwith record for hearing on 12.11.2018 in this case. On the said date Sh.Dhiraj Kumar submitted a copy of the expenditure statement and letter dated 31.05.2017.

11. I have heard Sh.Dhiraj Kumar s/o Sh.Mahvir Parsad and representative of MC Narnaul. I have also examined the order dated 01.10.2018 passed by undersigned being Competent Authority, the review application of the applicant and relevant record. In view of amendment mentioned above State Election Commission has been empowered to review its orders. As per Section 13-K, a member so disqualified can file review application within 45 days from the receipt of the order. Orders of the undersigned passed on 01.10.2018 were received by the applicant on 01.11.2018 and he filed instant review application on 02.11.2018 i.e. within 45 days as provided under Section 13-K. Hence the application being within time limit has been considered. After going through the above facts I am convinced that the Sh.Dhiraj Kumar has already deposited his expenditure statement as reported by the representative of Municipal Council, Narnaul and letter of MC, Narnaul. Hence, the review application dated 02.11.2018 of Sh. Dhiraj Kumar S/o Sh. Mahvir Parsad is accepted and disqualification order dated 01.10.2018 of Sh. Dhiraj Kumar S/o Sh. Mahvir Parsad is hereby withdrawn.

Panchkula:
The 12th November, 2018.

DR. P. K. SHARMA,
Secretary,
State Election Commission, Haryana.